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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/542,731

07/20/2005

Hans Johann Horn

3827-135

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30448

7590

04/08/2008

AKERMAN SENTERFITT

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EXAMINER

LEWIS, JUSTIN V

ART UNIT

PAPER NUMBER

3722

MAIL DATE

DELIVERY MODE

04/08/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/542,731	<b>Applicant(s)</b> HORN, HANS JOHANN	
	<b>Examiner</b> JUSTIN V. LEWIS	<b>Art Unit</b> 3722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>06 February 2007, 21 May 2006</u> .                           | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Double Patenting***

1. Applicant is advised that should claim 1 be found allowable, claim 10 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by WO/2001/081099 to Horn, published in English as U.S. Patent Application No. 2002/0122687 to Horn ("Horn"). Note that the features disclosed in WO/2001/08199 will be described below with reference to the Horn English publication.

Regarding claim 1, Horn teaches a ring binder mechanism comprising: i) a housing having a "C" or "U" shaped cross section with spring-elastic bendable flanks (see paragraph 2); ii) two carrier rails with inward facing longitudinal edges lying against each other forming a linkage axis, and with outward facing longitudinal edges engaging in mounting grooves in the housing flanks (see paragraph 2); and iii) at least two half-

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rings longitudinally spaced apart from each other and rigidly connected with the carrier rails, the half-rings extending through openings in the housing walls and pair-wise forming rings (see paragraph 2); wherein: i) the carrier rails are limitedly pivotable relative to each other about the linkage axis between an open position and a closed position upon overcoming the spring force produced by the bending open of the housing flanks while taking the half-rings along (see paragraph 2); ii) at least two locking elements (blocking elements 32 and 32', as described in paragraph 57) are provided to be operable via an actuating element (operating element 18) and a tie rod (tension members 44 and 44', as described in paragraph 57), which locking elements, in the closed position, protrude into a free space formed between the carrier rails and the housing wall blocking the pivot movement of the carrier rails (see paragraph 60) and, in the open position, free the pivot movement of the carrier rails about the linkage axis (see paragraph 61); and iii) the locking elements are pre-tensioned in the direction of the closed position under the influence of a closing spring (see paragraph 7) and wherein the tie rod includes a number of engaging elements, preferably dogs, each of which respectively being associated with one of the locking elements (see upward bent section of leg 50 in fig. 5a).

Regarding claim 2, Horn teaches the ring binder mechanism of claim 1, wherein the tie rod is a piece of wire extending essentially parallel to the linkage axis (see paragraph 74).

Regarding claim 3, Horn teaches the ring binder mechanism according to claim 1, wherein the dogs are bends or offsets on the tie rod (see upward bent section of leg 50 in fig. 5a).

Regarding claim 4, Horn teaches the ring binder mechanism of claim 1, wherein each ring element is provided with its own locking spring independent of the tie rod (see paragraph 57).

Regarding claim 5, Horn teaches the ring binder mechanism of claim 4, wherein the locking springs are leg springs (see paragraph 57).

Regarding claim 6, Horn teaches the ring binder mechanism of claim 1, wherein only one locking spring is provided, namely engaging the end of the tie rod opposite to the actuating element (see paragraph 7).

Regarding claim 7, Horn teaches the ring binder mechanism of claim 1, wherein each locking element includes a receptacle for the corresponding dog of the tie rod and is in operative association therewith (see figs. 7c and 7e).

Regarding claim 8, Horn teaches the ring binder mechanism of claim 1, wherein at least one of the locking elements is a pivot element (see paragraph 67).

Regarding claim 9, Horn teaches the ring binder mechanism of claim 8, wherein at least one locking element is held pivotably on one of the two carrier rails and/or on the housing (see paragraph 28, teaching that one leg of the blocking spring, to which the blocking element is attached, is supported by a fixed mounting point on the housing or a carrier rail).

Regarding claim 10, Horn teaches a binder with a ring binder mechanism comprising: i) a housing having a “C” or “U” shaped cross section with spring-elastic bendable flanks (see paragraph 2); ii) two carrier rails with inward facing longitudinal edges lying against each other forming a linkage axis, and with outward facing longitudinal edges engaging in mounting grooves in the housing flanks (see paragraph 2); and iii) at least two half-rings longitudinally spaced apart from each other and rigidly connected with the carrier rails, the half-rings extending through openings in the housing walls and pair-wise forming rings (see paragraph 2); wherein: i) the carrier rails are limitedly pivotable relative to each other about the linkage axis between an open position and a closed position upon overcoming the spring force produced by the bending open of the housing flanks while taking the half-rings along (see paragraph 2); ii) at least two locking elements (blocking elements 32 and 32', as described in paragraph 57) are provided to be operable via an actuating element (operating element 18) and a tie rod (tension members 44 and 44'), which locking elements, in the closed position, protrude into a free space formed between the carrier rails and the housing wall blocking the pivot movement of the carrier rails and, in the open position, free the pivot movement of the carrier rails (see paragraph 60) about the linkage axis (see paragraph 61); and iii) the locking elements are pre-tensioned in the direction of the closed position under the influence of a closing spring (see paragraph 7) and wherein the tie rod includes a number of engaging elements, preferably dogs (see upward bent section of leg 50 in fig. 5a), each of which respectively being associated with one of the locking elements.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: i) U.S. Patent No. 6,276,862 to Snyder (teaching a binder mechanism); and ii) U.S. Patent No. 6,036,394 to Cheng (teaching a ring metals with linkage locking device).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JUSTIN V. LEWIS whose telephone number is (571)270-5052. The examiner can normally be reached on M-F 7:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica S. Carter can be reached on (571) 272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/JVL/

/Monica S. Carter/  
Supervisory Patent Examiner, Art Unit 3722